

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

MidAmerican Energy Company, Nicor	)	
Energy, L.L.C., AES New Energy, Inc.,	)	
and the National Energy Marketers	)	
Association	)	
	)	02-0290
Request for Expedited Rulemaking	)	
Regarding Telephonic and Internet	)	
Enrollment Procedures Consistent	)	
with § 2EE of the Customer Fraud	)	
and Deceptive Business Practices Act	)	
	)	

**ILLINOIS POWER COMPANY’S COMMENTS**

Pursuant to the schedule set in the above-captioned proceeding, Illinois Power Company (“Illinois Power”) submits the following comments concerning Petitioners’<sup>1</sup> proposed Telephonic Enrollment Rules and Internet Enrollment Rules (collectively “Proposed Rules”). Although our comments only address a few issues, Illinois Power reserves its right to reply to any issues raised by any parties in accordance with the schedule in this matter.

On May 21, 2002, Staff of the Illinois Commerce Commission moved to dismiss the Petition in its entirety contending that the Telephonic Enrollment Rules do not satisfy the requirements of Section 2EE of the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 et seq. (“Consumer Fraud Act”), and the Proposed Rules interferes with the Commission’s Delivery Service Tariff Orders. See Staff of the Illinois Commerce Commission’s Motion to Dismiss Petition Requesting the Expedited

Promulgation of a Rule by MidAmerican Energy Company, Nicor Energy, L.L.C, AES New Energy, Inc., and the National Energy Marketers Association (herein “Motion to Dismiss”). Although the comments on the Proposed Rules and responses to the Motion to Dismiss are on different schedules, the issues raised in the Motion to Dismiss must be resolved before the Commission adopts any variation of the Proposed Rules. Illinois Power reserves its right to provide a response to the Motion to Dismiss.

Illinois Power is generally not opposed to, subject to a determination of their legality, the use of electronic signatures as a means of satisfying certain authorization requirements between a customer and a Retail Electric Supplier (“RES”), provided such method does not affect the utility/supplier or the utility/customer relationship and dealings. The Petitioners provide that “[i]f the customer acknowledges their understanding of the terms and conditions [of the Telephonic Enrollment Process<sup>2</sup>] and agrees to the offer, the sale is complete and the switch process with the utility begins under the existing terms and conditions of each electric utility’s tariffs.” Memorandum in Support of Petition Requesting the Expedited Promulgation of a Rule by MidAmerican Energy Company, Nicor Energy, L.L.C., AES New Energy, Inc., and the National Energy Marketers Association (herein “Memorandum”), p. 11. Moreover, a review of the Proposed Rules reveals that the processes will apparently only affect the RES/Customer relationship. Accordingly, Illinois Power does not oppose the substance

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<sup>1</sup> MidAmerican Energy Company, Nicor Energy, L.L.C., AES New Energy, Inc., and the National Energy Marketers Association’s

<sup>2</sup> Although Petitioners do not present details of the process between the utility and the supplier after the customer accepts the offer of service under the Internet Enrollment Process, the process itself only appears to address the customer/RES relationship.

of the Proposed Rules so long as it is clear that a Utility's requirements under its Tariffs will not be affected by the Proposed Rules.

Illinois Power has also indicated its support of a workshop on the issue of electronic signatures. See Order, ICC Docket 01-432, p. 130. Although the Petitioners have now come forth with their Proposed Rules, such rules may interfere with the scope of any planned workshops. In any event, one of the issues that must be resolved in this docket, or in a workshop, is this issue regarding the legality of electronic signatures and telephonic signatures.

In its Motion to Dismiss, Staff has taken the position that the Telephonic Enrollment Rules do not satisfy the requirements of the Consumer Fraud Act, when read in concert with the Illinois Electronic Commerce and Security Act, 5 ILCS 175/1-100 *et seq.*, and the Public Utilities Act, 220 ILCS 5/1-101 *et seq.* Illinois Power generally agrees with Staff's analysis provided in its Motion to Dismiss.

In conclusion, Illinois Power does not oppose the substance of the Proposed Rules; however, whether the Commission ultimately decides to adopt these rules must be considered in connection with the issue of their legality and timeliness.

Respectfully submitted,

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Dated: June 3, 2002

**CERTIFICATE OF SERVICE**

I, Shig W. Yasunaga, certify that on the 3rd day of June, 2002, I served a copy of Illinois Power Company's Comments by electronic means or First Class Mail to the individuals on the service list attached.

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Shig W. Yasunaga

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